

PT 96-4

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

LUTHERAN CHURCH OF MAHOMET
Applicant

versus

THE DEPARTMENT OF REVENUE
Judge
OF THE STATE OF ILLINOIS

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Docket # 94-10-0059
Parcel Index # 15-13-15-126-007

Barbara S. Rowe
Administrative Law

RECOMMENDATION FOR DISPOSITION

APPEARANCES: MS. KELLY E. FORD, MCDONALD & FORD FOR LUTHERAN CHURCH OF MAHOMET.

SYNOPSIS:

THE CHAMPAIGN COUNTY BOARD OF REVIEW FILED A RELIGIOUS APPLICATION FOR PROPERTY TAX EXEMPTION WITH THE ILLINOIS DEPARTMENT OF REVENUE (THE "DEPARTMENT") FOR LUTHERAN CHURCH OF MAHOMET (THE "APPLICANT"). THE BOARD RECOMMENDED THAT THE DEPARTMENT DENY THE EXEMPTION BECAUSE THE PROPERTY WAS VACANT LAND. THE DEPARTMENT DENIED THE APPLICATION FINDING THAT THE PROPERTY WAS NOT IN EXEMPT USE. THE APPLICANT FILED A PROTEST TO THE FINDINGS OF THE DEPARTMENT AND REQUESTED A HEARING IN THE MATTER. AT THE HEARING, IT WAS ESTABLISHED THAT THE USE OF THE PARCEL WAS ACQUIREDED BY THE APPLICANT PRIOR TO THE YEAR IN QUESTION AND THAT THE PROPERTY IS VACANT LAND THAT THE APPLICANT USED AS A DRIVEWAY, FOR OVERFLOW PARKING

AND FOR CHURCH PURPOSES IN 1994. IT IS RECOMMENDED THAT THE DECISION OF THE DIRECTOR OF THE DEPARTMENT BE THAT THE PARCEL QUALIFIES FOR EXEMPTION FOR THE TAXABLE YEAR IN QUESTION.

FINDINGS OF FACT:

1. THE DEPARTMENT'S POSITION IN THIS MATTER, NAMELY THAT CHAMPAIGN COUNTY PARCEL INDEX NUMBER 15-13-15-126-007 WAS NOT IN EXEMPT USE FOR THE 1994 ASSESSMENT YEAR WAS ESTABLISHED BY THE ADMISSION IN EVIDENCE OF DEPT. EX. NOS. 1-5.

2. THE APPLICANT IS A RELIGIOUS CORPORATION WITH A CONGREGATION OF 766. THE AVERAGE ATTENDANCE DURING 1994 AT WEEKLY SERVICES WAS 267. (APPLICANT'S POST-HEARING EX. NO. 1)

3. SOME OF THE ACTIVITIES CONDUCTED BY THE APPLICANT DURING THAT YEAR INCLUDE 8:30 AND 11:00 SUNDAY WORSHIP SERVICES, 9:45 SUNDAY SCHOOL, CHOIR REHEARSALS, BIBLE STUDIES, THE LOGOS YOUTH PROGRAM AND CONFIRMATION CLASSES. (APPLICANT'S POST-HEARING EX. NO. 1)

4. THE APPLICANT WAS GRANTED A SALES TAX EXEMPTION BY THE DEPARTMENT ON JULY 29, 1977. (APPLICANT'S POST-HEARING EX. NO. 1)

5. THE APPLICANT ACQUIRED USE OF THE PROPERTY IN QUESTION BY AN AGREEMENT FOR SALE OF REAL ESTATE DATED DECEMBER 13, 1993. (DEPT. EX. NO. 1)

6. APPLICANT OBTAINED OWNERSHIP OF A ONE-THIRD INTEREST IN THE PROPERTY BY A GUARDIAN'S DEED DATED AUGUST 31, 1993. (DEPT. EX. NO. 1; TR. PP. 24-25)

7. THE APPLICANT ACQUIRED THE REMAINDER OF THE PROPERTY BY A WARRANTY DEED DATED JANUARY 31, 1994. THE DEED WAS HELD IN ESCROW PURSUANT TO THE TERMS OF THE AGREEMENT FOR SALE AND WAS RECORDED IN CHAMPAIGN COUNTY ON FEBRUARY 28, 1995. (DEPT. EX. NO. 1; TR. P. 25)

8. THE PROPERTY CONSISTS OF 2.39 ACRES OF UNDEVELOPED LAND THAT IS CONTIGUOUS TO INTERSTATE HIGHWAY 74. (APPLICANT EX. NO. 1, TR. P. 11)

9. THE PROPERTY IS ADJACENT TO THE LOT THAT CURRENTLY HOUSES THE APPLICANT'S CHURCH AND EDUCATIONAL AREA. (APPLICANT EX. NO. 1)

10. THE APPLICANT PURCHASED THE PROPERTY TO ENABLE THEMSELVES TO HAVE A DRIVEWAY LEADING TO THE CHURCH PARKING LOT AND TO HAVE ROOM FOR FUTURE EXPANSION FOR THE CHURCH. (APPLICANT EX. NO. 1; TR. P. 13)

11. IN 1994, THE APPLICANT USED THE PROPERTY FOR VACATION BIBLE SCHOOL, THE LOGOS YOUTH PROGRAM, THE YOUTH MINISTRY PROGRAM, ATHLETIC ACTIVITIES OF THE CHURCH AND OVERFLOW PARKING. THE APPLICANT ALSO OPENED A PORTION OF THE PROPERTY TO THE COMMUNITY FOR USE AS A GARDEN PLOT. (DEPT. EX. NO. 1; TR. PP. 15-17, 22-24)

12. THE APPLICANT MADE A CONSCIOUS DECISION NOT TO ASPHALT OR ROCK THE PROPERTY, FEELING THAT BY LEAVING THE GRASS TO GROW THEY WERE ADDING TO THE BEAUTY OF THE COMMUNITY. (TR. P. 17)

13. TIME HAD PROVEN THAT IT WOULD BE COST PROHIBITIVE FOR PRIOR OWNERS OF THE PROPERTY TO DEVELOP IT FOR USE AS A SUBDIVISION. THE APPLICANT, THEREFORE, WAS ABLE TO PURCHASE IT AT A REASONABLE PRICE. (DEPT. EX. NO. 5; TR. PP. 11-20)

CONCLUSIONS OF LAW:

THE ISSUE TO BE DECIDED IS WHETHER THE PARCEL IN QUESTION WAS USED FOR RELIGIOUS PURPOSES AS REQUIRED BY THE STATUTES OF ILLINOIS. ANY TAX

EXEMPTION MUST FIND ITS SOURCE IN THE CONSTITUTION. SECTION 3, ARTICLE IX OF THE ILLINOIS CONSTITUTION OF 1970 AUTHORIZES THE LEGISLATURE TO EXEMPT FROM TAXATION ALL PROPERTY USED EXCLUSIVELY FOR AGRICULTURAL AND HORTICULTURAL SOCIETIES, AND FOR SCHOOL, RELIGIOUS, CEMETERY AND CHARITABLE PURPOSES. PURSUANT TO THAT AUTHORITY, THE LEGISLATURE HAS PASSED A STATUTE AUTHORIZING AN EXEMPTION FOR RELIGIOUS PURPOSES AT 35 ILCS 200/15-40, WHICH STATES IN PART:

ALL PROPERTY USED EXCLUSIVELY FOR RELIGIOUS PURPOSES, OR USED EXCLUSIVELY FOR SCHOOL AND RELIGIOUS PURPOSES,... AND NOT LEASED OR OTHERWISE USED WITH A VIEW TO PROFIT, INCLUDING ALL SUCH PROPERTY OWNED BY CHURCHES OR RELIGIOUS INSTITUTIONS.....

THE SUPREME COURT IN THE PEOPLE V. CATHOLIC BISHOP, 311 ILL. 11 (1924) DETERMINED THAT THERE IS NOT A LIMITATION TO THE AMOUNT OR EXTENT OF GROUND FOR WHICH A RELIGIOUS ENTITY MAY APPLY FOR AND GET A PROPERTY TAX EXEMPTION, AS LONG AS THE USE OF THE PROPERTY IS PRIMARILY RELIGIOUS. THE COURT DECIDED THAT A TRACT OF LAND OF ABOUT 465 ACRES UPON WHICH WAS LOCATED A CATHOLIC SEMINARY INCLUDING A SUMMER SCHOOL, DORMITORIES, A NURSERY FOR GROWING TREES INCLUDING SHRUBS FOR BEAUTIFYING THE GROUNDS, A BASEBALL DIAMOND AND A LAKE QUALIFIED FOR EXEMPTION PURSUANT TO THE STATUTE EXEMPTING PROPERTY USED FOR EITHER SCHOOL OR RELIGIOUS PURPOSES. THE COURT ALSO FOUND THAT THE 80 ACRES INTENDED FOR USE AS A GOLF COURSE WERE NOT EXEMPT BECAUSE THE LAND HAD NOT BEEN DEVELOPED AND WAS STILL IN ITS NATURAL STATE ON THE DATE THAT DETERMINED THE EXEMPTION.

IN THE PRESENT CASE, I FIND THAT THE APPLICANT USED THE PROPERTY FOR RELIGIOUS PURPOSES WHEN IT USED IT FOR THE LOGOS PROGRAM, VACATION BIBLE SCHOOL, AS A DRIVEWAY TO THE CHURCH AND FOR OVERFLOW PARKING. I THEREFORE RECOMMEND THAT THE DECISION OF THE DIRECTOR OF THE DEPARTMENT BE THAT

CHAMPAIGN COUNTY PARCEL INDEX NUMBER 15-13-15-126-007 IS EXEMPT FROM
REAL ESTATE TAX FOR THE 1994 ASSESSMENT YEAR.

RESPECTFULLY SUBMITTED,

BARBARA S. ROWE
ADMINISTRATIVE LAW JUDGE

APRIL 5, 1996